

304.33-270 Actions by and against liquidator.

- (1) Termination of actions against insurer by order appointing liquidator. Upon issuance of any order appointing the executive director liquidator of a domestic insurer or of an alien insurer domiciled in this state, no actions may be instituted against the insurer or the liquidator without approval of the court and all actions and all proceedings against the insurer whether in this state or elsewhere shall be abated and the liquidator shall not intervene in them, except as provided in this subsection. Whenever in the liquidator's judgment an action in this state has proceeded to a point where fairness or convenience would be served by its continuation to judgment, he may apply to the court for leave to defend or to be substituted for the insurer, and if the court gives him leave, the action shall not be abated. Whenever in the liquidator's judgment, protection of the estate of the insurer necessitates intervention in an action against the insurer that is pending outside this state, with approval of the court he may intervene in the action. The liquidator may defend any action in which he intervenes under this section at the expense of the estate of the insurer.
- (2) Statute of limitations on claims by insurer. The liquidator may, within two (2) years subsequent to the entry of an order for liquidation or within such further time as applicable law permits, institute an action or proceeding on behalf of the estate of the insurer upon any cause of action against which the period of limitation fixed by applicable law has not expired at the time of the filing of the petition upon which such order is entered. Where, by any agreement, a period of limitation is fixed for instituting a suit or proceeding upon any claim or for filing any claim, proof of claim, proof of loss, demand, notice or the like, or where in any proceeding, judicial or otherwise, a period of limitation is fixed, either in the proceeding or by applicable law, for taking any action, filing any claim or pleading or doing any act, and where in any such case the period had not expired at the date of the filing of the petition, the liquidator may, for the benefit of the estate, take any such action or do any such act, required of or permitted to the insurer, within a period of sixty (60) days subsequent to the entry of an order for liquidation, or within such further period as is permitted by the agreement, or in the proceeding or by applicable law, or within such further period as is shown to the satisfaction of the court not to be unfairly prejudicial to the other party.
- (3) Statutes of limitations on claims against insurer. The time between the filing of a petition for liquidation against an insurer and the denial of the petition shall not be considered to be a part of the time within which any action may be commenced against the insurer. Any action against the insurer that might have been commenced when the petition was filed may be commenced for at least sixty (60) days after the petition is denied.

Effective: July 13, 1990

History: Amended 1990 Ky. Acts ch. 422, sec. 19, effective July 13, 1990. -- Created 1970 Ky. Acts ch. 301, subtit. 33, sec. 27, effective June 18, 1970.

Legislative Research Commission Note (6/20/2005). 2005 Ky. Acts chs. 11, 85, 95, 97, 98, 99, 123, and 181 instruct the Reviser of Statutes to correct statutory references to agencies and officers whose names have been changed in 2005 legislation confirming

the reorganization of the executive branch. Such a correction has been made in this section.